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Colorado Anti-Gay Amendment Challenged: Lawsuit Filed on Behalf of Lesbians, Gay Men and Three Cities

November 12, 1992 . . . Denver, CO . . . Advocates for lesbians, gay men and bisexuals filed a lawsuit today in state court in Denver challenging Colorado's recently passed anti-gay Amendment Two.

Approved by Colorado voters on election day, Amendment Two would amend the Colorado State Constitution to repeal all laws in Colorado that protect against discrimination on the basis of sexual orientation. The Amendment would also prohibit any entity from ever enacting such a policy or law in the future, or recognizing gay men and lesbians as a minority group.

Today's case was filed on behalf of several lesbians and gay men, a heterosexual man with AIDS and the City of County of Denver, the City of Boulder and the City of Aspen. The plaintiffs include tennis star Martina Navratilova, who lives near Aspen, and an ordained minister who has never before publicly acknowledged being a lesbian.

The plaintiffs are represented jointly by the American Civil Liberties Union of Colorado, the ACLU's national Lesbian and Gay Rights Project, the Colorado Legal Initiatives Project (CLIP), and the Lambda Legal Defense and Education Fund.

The complaint alleges that Amendment Two violates several provisions of the United States Constitution, primarily the Equal Protection Clause of the Fourteenth Amendment. The complaint says that the proposed amendment would authorize and encourage public and private discrimination on the basis of perceived sexual orientation and establishes a right to discriminate against gay men, lesbians

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The American Civil Liberties Union Foundation of Colorado is a member of
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and bisexuals as one of the basic policies of the State of Colorado.

"Amendment Two is blatantly unconstitutional and is precisely what the Equal Protection Clause prohibits," said Ruth E. Harlow, staff attorney with the ACLU's national Lesbian and Gay Rights Project. "The Amendment was intended to and would encourage differential and discriminatory treatment against lesbians, gay men and bisexuals."

Mary Celeste of CLIP said, "Bigots across the nation are watching Amendment Two closely. They will use it as a model to condone discrimination everywhere. This case has national significance."

James H. Joy, Executive Director of the Colorado ACLU, added, "Amendment Two constitutes a license to deny housing, employment and public accommodations to some of the most valuable members of our community. We cannot believe that Coloradans fully understood the degrading effects of these provisions."

The lawyers said that they are basing their case, in part, on a decision by a California appellate court last year. In that ruling, the California court declared unconstitutional a ballot initiative in Riverside, California, that was similar to Colorado's Amendment Two. Because it violated the constitutional rights of lesbians and gay men, the California court refused to allow the amendment to appear on the ballot.

Currently, seven states and more than 100 municipalities have laws that prohibit discrimination on the basis of sexual orientation. Efforts to repeal such laws failed in Tuesday's election in Oregon and in Portland, Maine. Voters in Tampa, Florida, however, repealed a recently enacted local gay rights law.

"Ever since the first laws protecting gay people from discrimination were enacted in the 1970s, we have been fighting this type of backlash and malice," said William B. Rubenstein, the Director of the ACLU's national Lesbian and Gay Rights Project. "Amendment Two is the most recent manifestation of legal bigotry in a long and sad history of discrimination against lesbians and gay men."

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"Despite the perpetuation of ugly public sentiment against gay people, we are confident that the courts have progressed to the point where they will not tolerate this type of state-mandated discrimination," he added.

A number of groups are considering a boycott of the state of Colorado unless Amendment Two is overturned. The American Association of Physicians for Human Rights, for example, recently cancelled its 1993 annual convention planned for Denver.

The lawsuit filed today also includes additional legal claims, including allegations that Amendment Two would chill speech, limit advocacy and coerce people to adhere to a single, state-approved belief respecting gay, lesbian or bisexual orientation--all in violation of the U.S. Constitution's guarantees of freedom of association and expression.

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